

The 17th May, 1982

No. 9 (1)-82-6Lab./4135.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Robindra Textile Mills, 14/5, Mathura Road, Faridabad.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER,
LABOUR COURT, HARYANA, FARIDABAD

Reference No. 64 of 1980

between

SHRI KALYAN CHAND, WORKMAN AND THE MANAGEMENT OF M/S
ROBINDRA TEXTILE MILLS, 14/5, MATHURA ROAD, FARIDABAD

Workman in person with Shri Darshan Singh.
None for the respondent management.

AWARD

This reference No. 64 of 1980 has been referred to this Court by the Hon'ble Governor of Haryana,—*vide* his order No. ID/FD/85-79/7514, dated 8th February, 1980, under section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication of the dispute existing between Shri Kalyan Chand, workman and the management of M/s. Robindra Textile Mills, 14/5, Mathura Road, Faridabad. The terms of the reference was:—

Whether the termination of service of Shri Kalyan Chand was justified and in order? If not, to what relief is he entitled?

After receiving this reference, the notices were sent to the parties and the parties appeared in the Court and filed their pleadings. The case of the workman according to the demand notice and claim statement is that the workman was working in the respondent factory from 18th July, 1975 at the rate of Rs. 221 per month. The workman received one telegram from his home for the illness of his mother and the workman after receiving this telegram send a registered letter for leave from 22nd April, 1978 to 9th May, 1978. The workman sent one telegram, the management did not reply the same and the workman accepted it as the leave sanctioned. But when the workman came back to resume his duty on 10th May, 1978, he was not allowed to resume his duty and the respondent terminated the services of the workman illegally and the workman prayed for his re-instatement with full back wages and continuity of service.

The case of the respondent according to their written statement is that this Court has no jurisdiction to entertain the subject-matter as the Haryana State rejected the demand notice of the workman,—*vide* his order dated 17th July, 1978 for the reason that on investigation it had been found that the workman remained absent without getting his leave sanctioned. The Government to make any reference for adjudication for this court has not jurisdiction to go into the matter.

The respondent has admitted para No. 1 of the claim statement and denied the other para in the written statement because the workman himself abandoned his employment and as such he has no right of reinstatement as claimed by him and the claim is not maintainable in law and is liable to be dismissed. On the pleadings of the parties following issues were framed:—

1. Whether this reference could not be referred to this Court after it has been rejected by the Government earlier on the same grounds? If so, to what effect?

2. Whether it is a case of voluntarily abandonment of services by the workman ? If so, to what effect ?
3. Whether the termination of services is proper and justified; if not, to what relief is he entitled ?
4. Relief ?

As per order of my predecessor issue No. 1 and 2 be treated as preliminary issue and decided first. My findings on issue is as under :—

Issue No. 1.—On this issue the respondent representative argued that the demand notice of the workman was rejected by the Government,—*vide* his order Ex. M-2 as stated therein that the case is not fit for reference for adjudication. After this letter according to law no was on opportunity was given to the respondent to be heard on any other ground. There was no other ground submitted by the workman for the reference for adjudication in the Court and without hearing the parties at the state of conciliation proceedings no reference can be made under the law, and this court has no jurisdiction to decide the matter as provided in the law.

The representative of the workman argued that it is correct that Government rejected previous demand notice of the workman but the workman filed an appeal against that order on which the demand was again referred to the Conciliation Officer,—*vide* letter No. 50224, dated 27th November, 1979 which is Ex. W-12. Ex. W-12 is a notice from the Conciliation Officer to the parties for conciliation proceedings. The representative of the workman argued that saying that the representative of the respondent is quite wrong in view of letter Ex. W-12 which was also received by the respondent for conciliation proceedings. So there is no question of opportunity not given to the respondent for II thought of the Government for sending the reference in the Court. After that conciliation proceedings the Government sent the reference to the Court.

After hearing the arguments of both the sides I am of the view that there is nothing wrong in the reference order in view of Ex. W-12 which was produced by the workman and the copies of the same were also sent to the respondent by the Conciliation Officer as shown in the notice. So I decide this issue in favour of workman against the respondent.

Issue No. 2.—On this issue the representative of the respondent argued that the claimant remained absent from 21st April, 1979 to 9th May, 1980 without any intimation to the respondent and the application sent by the claimant was rejected and not sanctioned by the respondent as stated by Shri S.K. Talwar, Time Office Incharge as MW-1. The workman proceeded on leave without getting the leave sanctioned and he was marked absent and according to standing order the name of the workman was struck off from the rolls he was absent from duty without information and so he voluntarily abandoned the service of the respondent.

The representative of the workman argued on this issue that the workman joined the service of the respondent from 18th July, 1975 and was an old and permanent employee and was getting Rs. 225 per month as salary. He received a telegram from his home calling him to see his mother who was seriously ill. The workman requested the respondent management for leave but they replied that leave the service and go home as stated by the workman in his demand notice Ex. W-11 and in his application Ex. M-1 and his statement as WW-1. When the respondent refused to sanction the leave the claimant sent the telegramme which is Ex. W-13 and the application for leave which is Ex. M-1 which is admitted by the respondent and produced in the Court. After sending the telegram and the application the claimant received no letter from the respondent and presumed that they have sanctioned the leave of the workman when after the expiry of the leave the claimant came to

join the duty on 10th May, 1978, he was stopped at the gate and not allowed to join the duty as stated by the workman in his statement as WW-1. The representative of the respondent cross-examined the claimant at length but did not get any material point out of it whereas the respondent has failed to accept or deny the contention of the claimant in his demand notice or in the statement of witness of the respondent. They have concealed the fact. They should have clearly denied or accept the contention of the respondent in the written statement when it was clearly given in the demand notice and claim statement of the workman that he went on leave and sent the telegram and the applications. The respondent witness MW-1 has stated in his cross-examination that the respondent did not feel necessary to reply Ex. M-1 the application of the claimant. If they have rejected the application of the claimant they should have informed the concerned workman for the rejection of the application and asking him for joining his duty immediately which the respondent has failed according to the witness of the respondent MW-1. The respondent witness further stated in cross-examination that no letter was sent to the workman and it was not necessary to write any letter for presenting himself for duty and he has proceeded on leave without getting the leave sanctioned. It is a matter of serious thought when the mother of the workman is seriously ill and received a telegram for this purpose who cannot stay for the work in the presence of illness of his mother and it was the duty of the respondent to allow the workman to go and see his mother who was seriously ill at his home. The respondent has failed in his duty against the workman. As the workman was permanent and old employee, the respondent was duty bound to send the letter to the workman to join the duty immediately and the fact that he received a telegram from his home was very clear to the respondent when he received a telegram Ex. M-1 then they should have waited for explanation or they should have called the explanation of the old employee for absenting himself without getting his leave sanctioned and after the enquiry they should take the action according to law. The action taken by the respondent is illegal under the law and it is not voluntary abandonment of service. The workman has to go his home under the compulsion and not for any purpose. So it is not voluntary abandonment of service under eye of law.

After hearing the arguments of both the parties, and going through the file, I am of the view that the claimant was an old employee having four years service at his credit cannot be terminated in this way in which the respondent has terminated. They should have made the enquiry of his absence and if they found that the absence is malafide then they could terminate the service of the workman and not with the simple pen they have terminated and it is not voluntary abandonment of service. So this issue is decided in favour of the workman and against the respondent. Moreover the workman was not given any kind of order and the termination of an old employee comes under section 2(00) which came under the retrenchment which are the mandatory provisions of the Industrial Disputes Act without which the termination is void as held by the learned Supreme Court of India in the LIC Vol. 10—1977—page 1695 in the case of Delhi Cloth and General Mills Co. Ltd. v/s Shambhu Nath Mukherji and others :—

“That striking off the name of the workman from the rolls by the management is termination of his service. Such termination of service is retrenchment within the meaning of S.2(00) of the Act. There is nothing to show that the provisions of Section 25-F (a) and (b) were complied with by the management in this case. The provisions of S. 25-F(a) the proviso apart of retrenchment in violation of these two pre-emptory conditions precedent, is invalid.”

Issue No. 3.—As the preliminary issues have been decided in favour of the workman and III issue is for the justification of termination. The respondent has given all the evidence for issue No. 2 on which they have terminated the services of the workman. This reference was received in this Court on 18th February, 1980 and delayed very much on account of the parties and I think there is no need to give any time to the parties to lead evidence for proving the 3rd issue as termination was justified because the respondent has terminated the services

of the workman on the ground which cover under issue No. 2 and there is no other ground with the respondent in the written statement. So the respondent can not give any other evidence for proving the termination justified except as given in issue No. 2. When issue No. 2 has already been decided in favour of the workman and termination on the very ground which is not justified and not proper.

So this issue is decided in favour of the workman against the respondent and the claimant is entitled for his reinstatement with full back wages and continuity of service.

This be read in answer to this reference.

HARI SINGH KAUSHIK,

Dated 10th April, 1982.

Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endst. No. 841, dated 19th April, 1982.

Forwarded (four copis) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

No. 9(1)82-6Lab./4137.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947. (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Bengal National Textile Mills Ltd., 14/5, Mathura Road, Faridabad :—

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER,
LABOUR COURT, HARYANA, FARIDABAD.

Reference No. 471 of 1980

between

SHRI RAM NIWAS, WORKMAN AND THE RESPONDENT MANAGEMENT
OF M/S BENGAL NATIONAL TEXTILES MILLS LIMITED, 14/5,
MATHURA ROAD, FARIDABAD.

Present—

Shri R. N. Roy for the workman.

Shri R. C. Sharma for the respondent management.

AWARD

This reference No. 471 of 1980 has been referred to this Court by the Hon'ble Governor of Haryana,—*vide* his order No. ID/FD/185-80/52951, dated 13th October,

1980, under section 10(i)(c) of the Industrial Disputes Act, 1947, existing between Shri Ram Niwas, workman and the respondent-management of M/s Bengal National Textiles Mills, Limited, 14/5, Mathura Road, Faridabad. The terms of the reference was :—

Whether the termination of services of Shri Ram Niwas was justified and in order ? If not, to what relief is he entitled ?

Notices were issued to the parties, on receiving this order of reference. The parties appeared and filed their pleadings. The case of the workman is that he received a charge-sheet on 27th October, 1979, for an alleged incident on 27th October, 1979 for not opening the gate and stopping Shri S. V. Saberwal at the gate and was placed under suspension on 28th October, 1979. The workman replied the charge-sheet on 28th October, 1979, saying that the incident took place due to the new driver unknown to the workman and when he saw Shri Saberwal he opened the gate. No enquiry was held and on 4th April, 1980, the management terminated the service by paying Rs. 2,000 only to avoid enquiry and reinstatement. This is *mala fide* and the order of termination is illegal. The workman joined the services on 15th February, 1976 and drawing a salary of Rs. 289 per month. The respondent made a story that the workman resigned from his service on 3rd April, 1980 had received his full and final settlement. The workman denied the resignation and stated that signatures were obtained on a blank paper and made it a resignation and in this way terminated the services of the workman which is wrong and illegal and the workman is entitled for the reinstatement with full back wages and continuity of service.

The case of the respondent according to the written statement is that the reference is bad in law because the Conciliation Officer sent the *ex parte* report and did not give the opportunity to the respondent in the conciliation proceedings. The workman submitted his written request on 3rd April, 1980, that he should be given his full and final wages before the respondent proceed further in the matter. Keeping in view the request of the workman his full and final accounts were settled and relieved from services of the company thereby closing the entire case connected with the charge-sheet. The workman submitted his resignation voluntarily which was accepted then, the question of retrenchment does not arise. The workman took Rs. 2,000 as full and final and there is no dispute with the respondent after taking the full and final of the workman. The whole claim of the workman is false and fabricated in view of the preliminary objections and the workman is not entitled to any relief. It is, therefore, prayed that the reference may be rejected.

On the pleadings of the parties, following issues were framed :—

- (1) Whether it is a case of voluntary abandonment of service as he resigned on his own and free will ?
- (2) Whether the termination of service of the workman is proper, justified and in order ? If not, to what relief is he entitled ?
- (3) Relief ?

My findings on the issues are as under :—

Issue No. 1 :—

Issue No. 1 is for voluntary abandonment of service. On this issue the respondent representative argued that the workman was working as Chowkidar in the respondent company and he was suspended and remained suspended for 5 or 6 months as stated by Shri Sada Nand the Security Officer of the respondent company, as MW-1. The workman used to ask the respondent witness to settle the case and he requested so many

time. The workman was demanding Rs. 2,000 for his settlement. The witness further stated that he persuaded the matter to the respondent two/three times and succeeded in the settlement according to the wishes of the workman and was paid Rs. 2,000 as demanded by the workman. The workman resigned of his own and signed on Exhibit M-1 as admitted before the Court and took Rs. 2,000 on a voucher Exhibit M-2 and also admitted the signature on the voucher and the full and final receipt Exhibit M-3 was also signed by the workman which is also admitted in the Court on 3rd April, 1980 and took Rs. 2,000 for his full and final settlement. The workman took a certificate, dated 12th April, 1980 which is Exhibit M-4 and admitted the signature on the certificate in the Court proves that the workman voluntarily resigned from his job and took his full and final settlement voluntarily and there is no case of the workman after taking full and final and admitted Exhibit M-2 and M-3 in the Court.

The representative of the workman argued that as admitted by the respondent the workman joined the service of the respondent on 16th February, 1976, as Chowkidar and drawing Rs. 289. On 27th October, 1979, when the workman was on duty at the gate one car came from outside which was driven by unknown driver and the workman stopped the car and when he saw that Shri Saberwal is sleeping in the back seat he opened the gate but Shri Saberwal annoyed with the workman and suspended the workman on 28th October, 1979 and charge-sheet was issued to him. The workman who suspended by the respondent. He used to visit the gate daily for his attendance. On 4th April, 1980 when he was on the gate for attendance purposes he was called inside the gate where the Personal Manager, the Security Officer, Head Clerk and two other unknown persons were there and they called him in a room and asked him to sign some papers. He further argued that as stated by the workman in his statement that he refused to sign the blank papers and the workman was beaten with a rope and wanted to finish him by throwing in the boiler. When the workman was beaten up very much, he agreed to sign the blank vouchers and papers and paid Rs. 2,000 at the gate. The workman admitted the signature on Exhibit M-1, M-2 and M-3 and stated his position why he signed these vouchers. He further argued that if the workman has signed Exhibit M-1 voluntarily and received Rs. 2,000 then why the workman came in the Court and asked the President of Union to fight his case. The workman was an old employee and he was removed without any reason and the documents given by the respondent were taken under duress and threat. The respondent has not rebutted the contention of the workman which he has stated in his statement. The workman remained suspended for 5 or 6 months and the domestic enquiry was constituted against him but there was no enquiry conducted during this long period and the workman was beaten and taken these papers signed under the duress and it is not assigned by the workman voluntarily. The respondent should have enquired the matter and held the workman guilty after enquiry then should have terminated the services of the workman according to law. The respondent has not produced any other document except these three documents which are taken by the respondent by force from the workman. He further argued that the respondent has received signatures at two places, on the voucher one at the revenue stamp and other without stamp. They have also got signed the full and final receipt which also bears the revenue stamp and got the signature on this stamp. There was no need of revenue stamp on full and final receipt when they get the signatures on the voucher. This duplicacy shows that they have taken under duress and not a free will.

After hearing the arguments of both the parties, and going through the file, I am of the view that the respondent has failed to prove that the workman voluntarily resigned from the job because the resignation written by another man and the resignation is signed at two places shows that it is not resignation in a proper form. What was the need of signing two places at the resignation and the person who wrote the resignation has not come in the witness-box to prove that it was written by him at the asking of the workman. It shows that the papers were signed before the resignation was written and the voucher

bears the signature of the claimant at two places where as it requires signature on the revenue stamp. This also shows fictitiousness of the voucher and the respondent did not get proved, the resignation in a proper form in the Court. So I hold that it is not voluntarily resignation and it was taken under duress as stated by the workman in his statement. So this issue is decided in favour of the workman and against the respondent.

Issue No. 2:—

After deciding the issue No. 1 which was the basis of this case in favour of the workman, there is nothing remains to discuss on this issue because the respondent terminated the services of the workman according to resignation Exhibit M-1 which was decided in favour of the workman and holding the termination of workman unjustified and improper, so the workman is entitled for his reinstatement with full back wages and continuity of service after accounting the amount given to the workman at the time of removal from service.

This be read in answer to this reference.

Dated, the 15th April, 1982.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endt. No. 843, dated 19th April, 1982.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 45 of the Industrial Disputes Act, 1947.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

No. 9(1)82-6Lab/4139.—In pursuance of the provision of section 17 of Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workmen and the management of M/s Machine and Steel Tubes Corporation, Faridabad :—

IN THE COURT OF SHRI HARI SINGH KAUSHAK, PRESIDING OFFICER,
LABOUR COURT, HARYANA, FARIDABAD

Reference No. 226 of 1981

between

SHRI MUKHTIAR SINGH, J.S. GREWAL, T.S. BHATIA, BHAJAN CHAND,
JAI PAL, VASH DEV, KULDIP SINGH, ZERO KHAN, SUKH DEV SINGH,
MOHINDER SINGH, KANHIA LAL, P.P. GUPTA, NARESH NAGPAL, K.T.
VARGISH AND SHRI K.P. BHARGAV, WORKMEN AND THE RESPON-
DENT-MANAGEMENT OF M/S MACHINE AND STEES TUBES COR-
PORATION, FARIDABAD

Shri Amar Singh Sharma for the workmen.
None for the management.

AWARD

This reference No. 226 of 1981 has been referred to this Court by the Hon'ble Governor of Haryana, — vide his order No. ID/FD/108/81/38485, dated 20th August, 1981 under section 10(i)(c) of the Industrial Disputes Act, 1947 existing between Shri Mukhtyar Singh, J.S. Grewal, T. S. Bhatia, Bhajan Chand, Jai Pal, Vash Dev, Kuldip Singh, Zero Khan, Sukdev Singh, Mohinder Singh, Kanhia Lal, P.P. Gupta, Naresh Nagpal, K. T. Vargish and K.P. Bhargav, workmen against the respondent-management of M/s. Machine and Steel Tubes Corporation, Faridabad. The terms of the reference was :—

Whether the termination of service of workman mentioned above was justified and in order? If not, to what relief are they entitled.

On receiving this reference notices were issued to the parties. The parties appeared and the representative of the workmen filed the claim statement. Then the case was adjourned for 30th September, 1981 for filing the written statement. The management was given three opportunities for filing the written statement, but they failed in their duty. At last when the case was adjourned to 29th October, 1981, none was present from the side of the management. The representative of the workman was present. So I proceeded *ex parte* against the management and the case was fixed for recording of *ex parte* evidence of the workmen for 13th November, 1981. But on that day *ex parte* evidence of the workmen was not present and the case was adjourned to 3rd December, 1981. On 3rd December, 1981 statement of Shri Mukhtyar Singh was recorded, as WW-1 and statement of Shri Joginder Singh as WW-2 and Shri Kuldeep Singh as WW-3 were recorded.

Shri Mukhtyar Singh, WW-1 stated that he was working with the respondent-management from 1978 as Lathe Machine Operator @ Rs. 700 p.m. The management had not paid the wages for the month May, June and July, 1980 to all the workmen for which the workmen filed a claim before the Payment of Wages Act, Sector 21, Faridabad, on which the management became annoyed and terminated the services of all the workmen without assigning any reason. He has further stated that he is un-employed and prayed that he be reinstated with full back wages and continuity of service.

The claimant Shri Joginder Singh appeared as WW-2 and stated before this court that he was working with the respondent from 6th August, 1979 as skilled worker and drawing Rs. 1500 at the time of termination. He was further stated that his duty was to repair the machine, welding and assembly of the machines. Further stated that he worked in the factory with his own hand and none of the worker worked under him. He has further stated that the management did not give over time at the double and when he demanded the over time at the double rate, the management terminated his services on 9th August, 1980. The management has not paid the wages for last three months. He further stated that he is un-employed from the date of his termination and prayed that he may be reinstated with full back wages and continuity of service.

Shri Kuldeep Singh claimant appeared as WW-3, who has stated that he was working with the respondent from 7th August, 1979 as fitter and was drawing Rs. 400 at the time of termination. He has further stated that he raised the demand of double over time with the management along with other workmen of the factory. On which the management become annoyed and terminated his service on 9th August, 1980 along with other workers of the factory. The management has terminated his service illegally and prayed that he may be reinstated with full back wages and continuity of service. After recording of statement of three workmen; Shri Amar Singh Sharma, representative of the workmen stated that he withdrew all the cases of the workmen except WW-1 to WW-3, as the rest of the workmen has not come to depose in the Court despite many reminders.

In view of statement of the workman as WW-1, WW-2 and WW-3, I see no reason why the un rebutted *ex parte* evidence of the workmen given on oath should not be believed

especially when the management chose not to appear and defend this reference before this Court. So, I believing the statement of Sarvshri Mukhtyar Singh, Joginder Singh and Shri Kuldeep Singh as WW-1, WW-2 and WW-3, respectively and hold that the termination of services of the workmen Shri Mukhtyar Singh, Joginder Singh and Kuldeep Singh was neither justified nor in order and these workmen are entitled for reinstatement with continuity of service and with full back wages.

As the representative of the workmen Shri Amar Singh Sharma has withdrawn all the cases of the workmen except Shri Mukhtyar Singh, Joginder Singh and Kuldeep Singh, so I hold that the workmen S/Shri T.S. Bhatia, Bhajan Chand, Jail Pal, Vash Dev, Zero Khan, Sukhdev Singh, Mohinder Singh, Kanhia Lal, P.P. Gupta, Narash Nagpal, K. T. Vargish, Shri K.P. Bhargav are not entitled to any relief.

This be read in answer to this reference.

Dated the 16th April, 1982.

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endst. No. 845, dated the 19th April, 1982.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

The 28th July, 1982

No. 9, 132-5 Lab./6667.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Victory Engineering Corporation, Plot No. 257, Sector 24, Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 356/1981

between

SHRI RAM KIRSHAN, WORKMAN AND THE MANAGEMENT OF M/S VICTORY
ENGINEERING CORPORATION, PLOT NO. 257, SECTOR 24, FARIDABAD

Present :

Shri R. L. Sharma, for the workman.

Shri Ram Saroop Arora, for the management.

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Ram Kirshan and the management of M/s Victory Engineering Corporation, Plot No. 257, Sector 24, Faridabad, by order No. ID/FD/132/31/53962, dated 3rd November, 1981, to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Ram Krishan was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings. On the last date of hearing the representative of the workman made a statement that the workman was not available. Therefore, he was not interested in contesting the case on behalf of the workman.

In this circumstance, I presume that the workman was not interested in pursuing this reference. I pass no dispute award.

Dated the 24th June, 1982.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 709, dated the 26th June, 1982

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 30th July, 1982

No. 9(1)82-6Lab/6171.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s The Executive Engineer, S.Y.L. Division No. 4, Model Town, Canal Colony, Ambala City.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 87/1981

between

SHRI HARNAM SINGH, WORKMAN AND THE MANAGEMENT OF M/S THE EXECUTIVE ENGINEER, S.Y.L. DIVISION NO. 4, MODEL TOWN, CANAL COLONY, AMBALA CITY

Present:—

Shri Rajeshwar Nath, for the workman.

Shri S. C. Dhake, for the management.

AWARD

The State Government of Haryana, referred the following dispute between the workman Shri Harnam Singh and the management of M/s The Executive Engineer, S. Y. L. Division No. 4, Model Town, Canal Colony, Old Faridabad, by order No. ID/Amb/10/81/17856, dated 27th March, 1981,

to this Tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of service of Shri Harnam Singh was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings.

▲ The following issues were framed by my order dated 14th July, 1981:—

- (1) Whether respondent management is not an industry?
- (2) Whether the reference is bad in law?
- (3) Whether the termination of service of Shri Harnam Singh was justified and in order? If not, to what relief is he entitled?

The management examined Shri P. C. Jain, S.D.O. as MW-1 and the workman examined himself as his own witness. The arguments were heard.

Issue No. 1

The learned representative for the management argued that S.Y.L. Wing of the Irrigation Department was not an industry. It does not carry any trade of business rather it was a welfare department of the State Government. Its function was to provide irrigation facilities to the farmers. On the other hand, learned representative for the workman argued that the term industry as defined under section 2-J of the Industrial Disputes Act, 1947, did not mean only trade and business being run for profit motive. He argued that the department was having systematic activity and giving service to the public. He cited 1978-I-LII-page 349 Bangalore Water Supply Case. I have considered the argument advanced on behalf of the parties. There was no dispute about the term industry which was set at rest by the verdict of Hon'ble Supreme Court in Bangalore Water Supply Case referred above. The Court had held the following tests to arrive at a conclusion in this behalf.

- (i) Systematic activity (ii) Co-operation between employer and employee; (iii) Production and/or distribution of goods and services calculated to satisfy human wants and wishes—If these tests are satisfied prima facie there is an "industry."

The Irrigation Department was undertaking functions which fully satisfy the above tests. It rendered service to a section of the Society by supplying water for irrigation and other purpose. As regards profit motive, it was further held that absence of profit motive is irrelevant wherever the undertaking is, whether in the Public, Joint, Private or other sector. Therefore, I have not hesitation in holding the department as an industry in the light of verdict of the Hon'ble Supreme Court. I decide this issue against the management.

Issue No. 2.

This issue was claimed by the management on assumption that the management fell outside the definition of industry, therefore, there could be no reference for dispute. Because I have decided issue No. 1 against the management, therefore, the natural consequence was that the reference was competent. Therefore, this issue is also decided against the management.

Issue No. 3.

MW-1 deposed that the workman was in service in Sub-Division No. 14 which was under his charge, copy of the appointment letter was Ex. M-4. He was a workcharged employee and appointing authority was Executive Engineer. Seniority list of workers was maintained at the Divisional level. At the time of termination of service of the workman, there was an other driver Shri Ram Lal who was senior to the workman. There was no other driver in the Division. One month notice was issued to the workman, copy of which was Ex. M-2, which was received by the workman. He further deposed that the project estimate was sanctioned by the Government. According to the service book, Shri Ram Lal was appointed on 9th December, 1976 and the concerned workman on 12th December, 1976. Seniority list was Ex. M-3. In cross examination, he replied that the workman remained in Sub-Division No. 12 from 12th December, 1976 to 31st December, 1977. From 1st January, 1978 to 31st December, 1978, he remained in Sub-Division No. 9. He served from 1st January, 1979 to 26th June, 1979 in Sub-Division No. 8. He was transferred to Chandigarh S.Y.L. Circle from 26th June, 1979. A fresh appointment on *ad hoc* basis from 27th June, 1979 to 9th December, 1979 was made. He was kept on *ad hoc* basis upto 26th October, 1979 by order of the Chief Engineer. He remained in Mechanical Sub-Division No. 3, Ambala City from 27th October, 1979 to 30th November, 1979. He remained in Sub-Division No. 14 from 1st December, 1979 to 9th

November, 1980. He admitted that the workman was not paid any retrenchment compensation at the time of termination of his service. He could not tell if all the Sub-Divisions were under the same Executive Engineer. He admitted that Sub-Division No. 8, 9 and 12 were civil Sub-Divisions and were not under the Mechanical Division. He denied the suggestion that seniority of the workcharged staff was maintained at Circle level. He replied that workman was sent to other Divisions on completion of work in his division. No lien of the workman was maintained in the Division. The concerned workman stated that he got employment in S. Y. L. Circle I as jeep driver from 12th December, 1976. His service was terminated on 8th November, 1980. He was not paid any compensation nor he was issued any chargesheet. At the termination of his service, juniors were working in the Department. He was transferred from one Division to another. In cross examination, he replied that at the time of termination of service, he was working as jeep driver in Sub-Division No. 14. The other driver was junior to him. He admitted that before termination of his service, he had received notice. He denied the suggestion that he had requested for transfer from one Division to other Divisions. He admitted as correct that he had accepted the post of workcharged driver in Mechanical Sub-Division No. 2,—vide Ex. M-6.

I have gone through the documents and find that according to the Ex. M-1, the offer of appointment, the workman was offered a temporary post of jeep driver on workcharged basis. This letter was issued by the Executive Engineer S. Y. L. Division No. 3. According to the Ex. M-4, the concerned workman was adjusted against a vacant post of jeep driver by the Executive Engineer Division No. 2 on the application of the concerned workman. Ex. M-5 is in following words:—

“Shri Harnam Singh Jeep Driver (*Ad hoc*) had given his acceptance for the post of workcharged jeep driver in S. Y. L. Mech. Division No. 2 which is enclosed.”

Ex. M-6 was an application, dated 26th October, 1979 from the concerned workman in which the workman has given as under:—

“I hereby accept the post of workcharged Jeep Driver in S. Y. L. Mech. Division No. 2, Ambala on the same terms and conditions applicable to workcharged employee.

I further clearly undertake that I will have no rights/claims to the benefit of my *ad hoc* service rendered in the Department”.

The learned representative of the workman contended that the compliance of Section 25-F of the I. D. Act, 1947 was obligatory upon the management and the case was that of retrenchment. On the other hand, the learned representative for the management argued that the workman was employed as a workcharged Jeep Driver in service. He was issued one month notice and no compensation was payable to him. I find that according to the notice Ex. M-2, the work in the Sub-Division had been completed and services of the workman were no longer required. Further he was issued 30 days notice under rule. I am of the opinion that daily rated workman or casual labour was employed only when the work was of a casual nature. Likewise the workcharged staff was engaged for specified work on completion of which the staff becomes surplus. The workman according to the documents, appointment letter and letter of termination, was admittedly employed as work-charged jeep driver. I am strengthened in my opinion by the undertaking and language of the application of the concerned workman Ex. M-6 that he was a workcharged Jeep Driver and had rendered only *ad hoc* service. The workman had put in uninterrupted service of about 4 years in the department and termination of service amounted to retrenchment which was defined under Section 2(OO) of the Industrial Disputes Act. Definition is reproduced as under:—

“Retrenchment” means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include—

(a) Voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

(c) termination of the service of workman on the ground of continued ill health”.

The expression of retrenchment is so clear and unambiguous that to bring home the case of the workman to the ambit of clause no aid was needed. Therefore, I find that the termination amounted to retrenchment. He was entitled to the benefit of retrenchment of compensation. As regards, the reinstatement of the workman, I find that the project, on which he was working, had been completed. Therefore, he could not get the same job. Considering the hardship of the workman and findings that the employment was hard to be sought, I observe if the workman could be

engaged in any of other project of the Irrigation Department which may be started expansion of irrigation facilities.

With the above discussion, I pass my award that the termination of services of the workman contravened the provisions of the Industrial Disputes Act, 1947. The workman was entitled to retrenchment compensation. I also award him Rs. 1000 further compensation in lieu of costs, etc.

M. C. BHARDWAJ,

Dated the 23rd June, 1982.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 721, dated the 30th June, 1982

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82-6Lab./6962.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. The Sonapat Co-op. Sugar Mill, Sonapat.

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER, LABOUR COURT
HARYANA, ROHTAK.

Reference No. 229 of 1978

between

SHRI SUBHASH CHANDER, WORKMAN AND THE MANAGEMENT OF M/S THE SONEPAT
CO-OP. SUGAR MILLS LTD., SONEPAT.

Present :—

Shri S. N. Vats, for the workman.

Shri Vishnu Dutt Sharma, for the management.

AWARD

This reference has been referred to this Court by the Hon'ble Governor,—vide his Order No. ID/SPT/85-78/37412, dated the 10th August, 1978 under section 10(i)(c) of the I.D. Act for adjudication of the dispute existing between Shri Subhash Chander, workman and the management of M/s. The Sonapat Co-op. Sugar Mills Ltd., Sonapat. The term of the reference was :—

Whether the termination of services of Shri Subhash Chander was justified and in order ?
If not, to what relief is he entitled ?

On the receipt of the order of reference notice as usual were sent to the parties. The parties appeared, filed their respective pleadings, on the basis of which the following issue was framed :—

1. Whether the termination of services of Shri Subhash Chander was justified and in order ?
If not, to what relief is he entitled ?

The management examined Shri Tara Chand, Deputy Cane Manager and Shri Dharam Vir Singh, Cane Development Inspector as their witnesses and closed their case. The workman examined himself as his witness and closed his case. The management filed an application for permission to allow additional evidence on 3rd August, 1979 which was allowed on the payment of Rs. 50/- as cost. The management did not pay the cost of Rs. 50/- and the management was not allowed to lead additional,

evidence and their case was closed on 8th January, 1981. I heard the learned representatives of the parties and decide the issue as under:—

Issue No. 1:—

The workman was chargesheeted,—*vide* Ex. M-3 on receiving a complaint from Shri Tara Chand, Deputy Cane Manager that on 15th March, 1978 in shift 'C' a trolley was weighed,—*vide* weighment slip Ex. M-2 and the gross weight was shown 80.80 quintals and when it was reweighed by the Deputy Cane Manager, he found the weight 65.80 quintals. The workman gave his reply to the chargesheet,—*vide* Ex. M-5 in which he had admitted that a difference of about 14 quintals was detected but he was not aware whether tractor was also weighed along with the trolley or some other tractor from behind happened to be put on the weigh bridge. The Zeter tractor weighed 14 quintals and this very weight was in excess in that slip. He pleaded not guilty of the charge. This is clear cut admission of the guilt and in the face of his admission no enquiry is needed. The workman has not been able to prove his innocence. Ex. M-2 is the weight slip. Shri Subhash Chander has signed on the same in the margin at point 'A' and the same has been admitted to be in the hand of the workman. The management has not been able to prove that any regular enquiry was held but in my opinion when there is specific admission of the workman no regular enquiry is required. The charge is proved and which is also a serious one. The termination is justified and in order. The workman is not entitled to any relief either of reinstatement or back wages. The reference is answered and returned accordingly.

BANWARI LAL DALAL,

Dated the 29th June, 1982.

Presiding Officer,
Labour Court, Haryana,
Rohtak.

Endorsement No. 1558, dated the 30th June, 1982.

Forwarded (four copies) to the Secretary to Govt., Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the I.D. Act.

BANWARI LAL DALAL,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 9(1)-82-6Lab./6963.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Mukand Industrial Fastners M. I. E. Bahadurgarh.

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER, LABOUR COURT
HARYANA, ROHTAK

Reference No. 32 of 81

between

SHRI JHALLAR MAJHI, WORKMAN AND THE MANAGEMENT OF M/S MUKAND
INDUSTRIAL FASTNERS, M. I. E. BAHADURGARH

Present.—

No one for the workman.

Shri M. M. Kaushal for the management.

AWARD

This reference has been referred to this court by the Hon'ble Governor,—*vide* his order No. ID/RTK/13-81/18512, dated 16th February, 1981 under section 10 (i) (c) of the I. D. Act for adjudication of the dispute existing between Shri Jhallar Majhi, workman and the management of M/s Mukand Industrial Fastners, Bahadurgarh. The term of the reference was:—

Whether the termination of services of Shri Jhallar Majhi, was justified and in order? If not, to what relief is he entitled?

On the receipt of the order of reference notices as usual were sent to the parties. The parties put in their appearance. The workman filed the claim statement on 7th July, 1981. The management filed the written statement on 10th September, 1981. Rejoinder was filed by the workman on 29th January, 1982 and the following issues were framed on the basis of the pleas of the parties:—

1. Whether the workman left the services of the management on his own accord?

2. If not as per the term of reference?

The workman was proceeded against *ex parte* on 30th April, 1982 when no one appeared on his behalf. *Ex parte* evidence of the management was recorded on 29th May, 1982. I had also heard the arguments and decide the issue as under.

Issue No. 1 & 2.—The management examined Shri Phusa Ram Sharma, who deposed that a settlement was reached between the management and its workman under section 18 (i) of the I. D. Act on 17th February, 1980. The workman had put his signature on this settlement at points 'A' and 'B'. After this settlement the employees of the respondent management went on strike with effect from 3rd April, 1980, without any notice. No worker returned to join his duty. Registered letters were also sent to the Labour Officer, Sonapat, Secretary Labour, Labour Commissioner Chandigarh and Labour Inspector Bahadurgarh in this behalf and Shri Suraj Bhan a trade union leader was also asked to send the workers to resume their duties. But the workman did not join his duties even at the instance of the Labour Officer Sonapat. All the other workers except the workman concerned took their full and final payment of their dues. He further deposed that the name of the workman was not struck off till 7th December, 1980. No worker was employed till December, 1980. The workman concerned left the service of the respondent management on his own accord by remaining absent for a long period. He further stated that the workman is running a beetal and bidi shop out side the H. N. G. Gate.

The workman has not cared to pursue his demand raised on the management leading to the present reference. I have no choice but to rely on the unrebutted *ex parte* statement of the management witness. Relying on his statement I hold that the workman has left the service of the management of his own accord and the management has not terminated his services. Justifiability of termination is not required when the case is not covered under section 2(a) of the I. D. Act as this is a case of abandonment of service and not the case of termination, discharge or dismissal on the service. The workman is not entitled to any relief. The reference is answered and returned accordingly.

BANWARI LAL DALAL,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

Dated the 29th June, 1982.

Endst. No. 1559, dated the 30th June, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

BANWARI LAL DALAL,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

N. 9(1)82-5Lab/6954.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. Meenakshi Ceramic Industries, E-5, Industrial Area, Bahadurgarh.

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 162 of 1981

Between

SHRI LAL CHAND, WORKMAN AND THE MANAGEMENT OF M/S. MEENAKSHI CERAMIC INDUSTRIES, E-5, INDUSTRIAL AREA, BAHADURGARH

Present.—

No one for the workman.

Shri M. M. Kaushal, for the management.

AWARD

This reference has been referred to this court by the Hon'ble Governor,—vide his order No. 1D/RTK/166-81/60442, dated 16th December, 1981, under section 1C(i)(c) of the I. D. Act for adjudication of the dispute existing between Shri Lal Chand, workman and the management of M/s. Meenakshi Ceramic Industries, Bahadurgarh. The term of the reference was :—

- Whether the termination of services of Shri Lal Chand was justified and in order ? If not, to what relief is he entitled ?

On the receipt of the order of reference notices as usual were sent to the parties. The parties put in their appearance on 25th February, 1982. The workman did not file his claim statement on two occasions and neither he nor any one authorised by him appeared on 29th April, 1982 and the workman was proceeded *ex-parte*. The management examined Shri Madan Lal, Manager respondent as their witness who deposed that the workman was appointed,—vide letter dated 1st April, 1981 on probation. The term and condition given in the appointment letter was duly accepted by the workman who signed in token of the same. The service of the workman were dispensed with after the expiry of the probation period after serving him with notice and his full and final account were cleared on 22nd August, 1981.

The workman had not chosen to pursue his demand of reinstatement leading to this reference. I am left with no alternative but to rely upon the *ex-parte* statement of the management witness which is made on oath and is un rebutted. Relying on his statement I hold that the services of the workman were terminated in accordance with the term and conditions contained in the order of appointment and the workman has received his full and final account after the expiry of his probation period. The termination is justified and in order. The workman is, therefore, not entitled to any relief either of reinstatement or of back wages. The reference is answered and returned accordingly.

The 29th June, 1982.

BANWARI LAL DALAL,

Presiding Officer,
Labour Court, Haryana, Rohtak.

Endorsement No. 1560, dated the 30th June, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the I.D. Act, 1947.

BANWARI LAL DALAL,

Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 9(1)32-6 Lab./7055.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Registrar, Cooperative Societies, Haryana Chandigarh and the Pundri Cooperative Marketing-cum-processing Society, Pundri, Teh. Kaithal:

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 141 of 80

between

SHRI RISAL SINGH, WORKMAN AND THE MANAGEMENT OF M/S REGISTRAR, COOPERATIVE SOCIETIES, HARYANA CHANDIGARH AND THE PUNDRI COOPERATIVE MARKETING-CUM-PROCESSING SOCIETY, PUNDRI, TEH. KATHAL.

Present::

Shri D.P. Daryal for the workman.

No one for the management.

AWARD

This reference has been referred to this court by the Hon'ble Governor,—*vide* his order No. ID/ID/146-79/34237, dated 23rd June, 1980 under section 10(i)(c) of the Industrial Disputes Act for adjudication of the dispute existing between Shri Risal Singh, workman and the management of M/s Registrar, Coop. Societies, Haryana, Chandigarh. The term of the reference was:

“Whether the termination of service of Shri Risal Singh was justified and in order? If not, to what relief is he entitled?”

Shri Risal Singh workman appeared in person in response to the notice and wanted that one more respondent was to be added as necessary party and prayed for adjournment. The necessary correction in title of the reference,—*vide* Haryana Government Corrigendum notification No. ID/FD/104-80/54811, dated 27th October, 1980 was effected and the Pundri Cooperative Marketing-cum-Processing Society, Pundri, Tehsil Kaithal was added as respondent. Notice for 20th January, 1981, was sent to the respondent. Another notice under registered A.D. sent to the management for 20th April, 1981 which was received and the parties put in their appearance on 20th July, 1981. On 14th September, 1981 no one appeared on behalf of the management and the management was proceeded against *ex parte*. *Ex parte* evidence of the workman was recorded on 8th March, 1982. The workman deposited that he was appointed as Salesman in the society on 26th June, 1963. The management terminated his services on 26th April, 1979. He was given the charge-sheet and he replied the same but no enquiry was held against him. The charges mentioned at Serial No. 3 and 4 of the charge-sheet were referred to arbitration and the Arbitrator gave his award in his favour. The photostat copies of the awards were Ex. WW-1/2 and WW-1/3. On charges mentioned at serial No. 1 and 6 the Arbitrator has been appointed but the award is pending. On charges at serial numbers 2, 5 to 12 no Arbitrator has been appointed and it was possible that the management was satisfied with the explanation given by him in his reply. He further stated that his services were terminated wrongly and illegally and no other person has been appointed in his place as the sheller was on lease and all the other employees of the society were working in the society.

The management has not cared to defend themselves against the demand of the workman which has led to this reference. I have no choice but to rely upon the unrebutted statement of the workman made on oath. Relying on his statement I hold that charges levelled against the workman are not proved and the termination of the workman was neither justified nor in order. The workman is entitled to reinstatement with continuity of service and with full back wages. The reference is answered and returned accordingly.

BANWARI LAL DALAL,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

Dated the 30th June, 1982.

Endorsement No. 1622, dated the 5th July, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

BANWARI LAL DALAL,

Presiding Officer,
Labour Court Haryana,
Rohtak.

No. 9(1)82-6Lab/7144.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s General Rubber Company, Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 141 of 1979

between
THE WORKMEN AND THE MANAGEMENT OF M/S GENERAL RUBBER COMPANY,
FARIDABAD

Present.—

Shri Amar Singh Sharma, for the workmen.
Shri H. L. Kapoor, for the management.

AWARD

The State Government of Haryana refer the following dispute between the management of M/s. General Rubber Company, Faridabad, and its workmen, by order No. ID ET/78/24032, dated 23rd May, 1978, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

- (1) Whether the workmen are entitled to the grant of dearness allowance? If so, with what details?
- (2) Whether the workmen are entitled to increase in their wages? If so, with what details?
- (3) Whether the workmen are entitled for house-rent allowance? If so, with what details?
- (4) Whether the workmen are entitled to the grant of cycle allowance? If so, with what details?
- (5) Whether the workmen should be provided with gur and milk? If so, with what details?

Notices of the reference were sent to the parties who appeared and filed their pleadings. The following issues were framed by my learned predecessor on 11th June, 1979 :—

- (1) Whether the reference is hit by some settlement as alleged in preliminary objection?
- (2) Whether the workmen are working on piece rated? If so, to what effect?
- (3) Whether the workmen are entitled to the grant of dearness allowance? If so, with what details?
- (4) Whether the workmen are entitled to increase in their wages? If so, with what details?
- (5) Whether the workmen are entitled for house-rent allowance? If so, with what details?
- (6) Whether the workmen are entitled to the grant of cycle allowance? If so, with what details?
- (7) Whether the workmen should be provided with gur and milk? If so, with what details?

The workmen examined Siri Siri Ram, workman as WW-1, Shri Brij Lal as WW-2 and Shri Matapher as WW-3. The management examined Shri R. C. Ahuja, Manager as MW-1. Arguments were heard.

Issue No. 1 and 2.—

The management had pleaded in the written statement that all the demands were prohibited by a statement and workers were piece rated employees but no settlement was placed on file nor any evidence was led on the issues. Therefore, these issues are decided against the management.

Issue No. 3 to 7.—

All these issues are about fiscal benefits scheme by the workman, therefore, I take up these issues together. In evidence, WW-1 deposed that he was working in the factory for the last 13 years. There were 52 workers in all. No residential accommodation was provided to the workers by the management nor any house-rent allowance was paid while it was paid by Payen Talbros, Taylor Instruments, Globe Hifab to its workers. He further deposed that he was getting Rs. 325 per month. The lowest paid workers were getting Rs. 240 per month. In cross-examination, he replied that no incentive scheme was in force in the factory. He was getting Rs. 252 prior to increase in wages. He admitted that there was increase in wages of other workers also. He could not give the name any other rubber factory in Faridabad, the workers of which were getting house-rent and cycle allowance. He admitted that Taylor Instruments and Payen Talbros employed more than 250 workers each. He did not know rate of allowance in those factories. WW-2 deposed that he was in the employment of the management for the last 12 years. At present he was getting Rs. 308 per month. They were not getting dearness allowance. In Yark India, workers were getting cycle allowance at Rs. 15, house-rent allowance at Rs. 30 per month and washing allowance of Rs. 5 per mensem. He further deposed that the workers in factory required supply of gur and milk so that the workers could be saved from sickness. M/s Sone Back Rubber factory were applied the same to its workers. In cross-examination, he replied that in Sone Back, there were about 100 workers. WW-3 also corroborated the statement of WW-1 and further deposed that M/s Super India Rubber Factory were also supplied gur and milk to its workers.

In cross-examination he admitted that there was an incentive scheme in force in the factory but he denied the suggestion that the workers received incentive bonus equal to wages of the month. He did not know about the items manufactured by the Taylor Instruments. MW-1 deposed that the management had increased D. A. in July, 1980, by Rs. 7.50 and an increase of Rs. 21 was made with effect from 15th November, 1980. From 1st January, 1981, D. A. at the rate of Rs. 10 per month was increased. All the workers get benefits of increase in the price index. The management used to give annual increment to all the workmen in November, every year. All the workers were given annual increment of Rs. 19. He further stated that two uniforms were supplied to the workmen during the year. Soap was also supplied to the workers each month. Bonus was paid at the rate of 10 per cent. Provident Fund and E. S. I. schemes were also in force. Packer was given Rs. 365 where its spreader was given Rs. 550, Operator Rs. 400, Taping Machine Operator Rs. 560 and Mixerman Rs. 400, Sweeper Rs. 375 and Weighman Rs. 400. He told that the company had incurred a loss of rupees eight lakhs in the year 1978, copy of which was Ex. M-1. Balance Sheet for the year 1978, was Ex. M-2. Statement of payment of wages was Ex. M-3. Statement of annual increment was Ex. M-4, Notification for fixing the minimum wages issued by Government was Ex. M-5. Incentive scheme was in force in the factory. Taylor Instruments and Payon Talbross were large factories in comparison to respondent factory. Those factories employed more than 2,000 workers each. Those were engineering units. In cross-examination, he replied that no other D. A. and increment was given than sanctioned by the Government in relation to increase in price living index. Witness further deposed that with effect from 1st January, 1981, payment of Rs. 13.50 was made to all the workers and with effect from July, 1981, payment of Rs. 18 was made all the workers as difference incurred in the price index. Those workers who had done more than 15 years service, were allowed Rs. 23 per mensem as increase, those who worked 10 to 15 years, were given Rs. 19 per mensem and other were given Rs. 10 per mensem. Bonus was paid in 1980 at the rate of Rs. 12 per cent. No rubber factory in Faridabad was giving house-rent and cycle allowance to its workers.

I have gone through the documents placed on file and find that in the previous year, the financial position of the company had suffered a loss during the years 1978, 1977 and 1979. The workmen had produced evidence about payment of house-rent allowance and other allowances to workers in Taylor Instrument but that cannot be equated with the respondent company. It is into evidence that the management had paid bonus at the rate of 12 per cent in the year 1980. Therefore, I find that this year must be a year of profit, although the management had not placed its balance sheet on record. It is admitted fact that in the rubber industry, chemicals are used and there is danger of health hazards. I think that the management could afford to supply gur and milk to the workers so that they may be in good health and I hope that the management will benefit from this because the workers will remain fit and fresh for work. I do not allow other demands of the workers.

Dated the 5th July, 1982.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 737, dated 6th July, 1982.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)25Lab/7145.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Anand Synthetic Pvt. Ltd., 22-K. M., Mathura Road, Faridabad.

BEFORE SHRI M. C. BHADWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 327/1981

between

THE WORKMEN AND THE MANAGEMENT OF M/S ANAND SYNTHETICS PRIVATE
LIMITED 22-K. M., MATHURA ROAD, FARIDABAD

Present.—

Shri O. P. Tyagi, for the management.
Nemo, for the workmen.

AWARD

The State Government of Haryana referred the following dispute between the management of M/s Anand Synthetics Private Limited, 22-KM. Mathura Road, Faridabad and its workmen by order No. ID/FD/41/81/50234 dated 1st October, 1981 to this Tribunal, for adjudication in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

- (1) Whether the suspension of the following workmen was justified and in order? If not, to what relief are they entitled?

1. Shri Dhan Singh
2. Shiv Ram Singh
3. Shri Muneer Ahmed
4. Shri Lalsa Yadav
5. Shri Gulshan Kumar
6. Shri Ram Dularey
7. Shri Ram Parvesh Singh
8. Shri Rajinder Kumar Verma
9. Shri Ram Kailash
10. Shri Mumtaz Ahmad
11. Shri Ram Dev
12. Shri Bali Ram Yadav
13. Shri P. S. Raj
14. Shri Rama Kant Thakur
15. Shri Vinod Kumar
16. Shri Nasir Ahmed
17. Shri Sita Ram.

Notices of the reference were sent to the parties who appeared and filed their pleadings. The following issues were framed :—

- (1) Whether the Tribunal has no jurisdiction to try this reference.
- (2) Whether the reference is bad because no demand notice was raised upon the management?
- (3) Whether the demand was espoused by a substantial number of workman?
- (4) Whether the suspension of the following workmen was justified and in order? If not, to what relief are they entitled?

- (1) Shri Dhan Singh
- (2) Shri Shiv Ram Singh
- (3) Shri Muneer Ahmed
- (4) Shri Lalsa Yadav
- (5) Shri Gulshan Kumar
- (6) Shri Ram Dularey
- (7) Shri Ram Parvesh
- (8) Shri Rajinder Kumar Verma

- (9) Shri Ram Kailash
- (10) Shri Mumtaz Ahmed
- (11) Shri Ram Dev
- (12) Shri Bali Ram Yadav
- (13) Shri P. S. Rai
- (14) Shri Rama Kant Thakur
- (15) Shri Vinod Kumar
- (16) Shri Nasir Ahmed
- (17) Shri Sita Ram

And the case was fixed for the evidence of the management. On the last date of the hearing the workmen did not appear and but management was present. The representative of the management made a statement that the workman had settled their dispute with the management before Deputy Labour Commissioner. He filed a copy of settlement Ex. M-1 on which the signatures of the workmen appeared.

In view of the above, I give my award that the dispute had been mutually settled by the parties and there was not dispute between the parties.

Dated the 2nd July, 1981.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 739, dated 7th July, 1982

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82-6Lab/7148.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/S Notified Area Committee, Taraori.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 69/1980

between

SHRI KRISHAN GOPAL, WORKMAN AND THE MANAGEMENT OF M/S NOTIFIED
AREA COMMITTEE, TARAORI

Present.—

Shri Mukand Lal, for the workman.

Shri Zile Singh, for the management.

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Krishan Gopal and the management of M/s Notified Area Committee, Taraori, by order No. 1D/KNL/79-80/58386, dated 28th November, 1982, to this Tribunal for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of the section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Krishan Gopal was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings. The following issues were framed by my order, dated 21st April, 1981 :—

Whether the termination of services of Shri Krishan Gopal was justified and in order ? If not, to what relief is he entitled ?

The management examined Shri Madan Gopal Octroi Superintendent as MW-1 and the workman examined himself as his own witness. Arguments were heard.

MW-1 deposed that the workman was appointed as a Octroi Peon on daily wages. The behaviour of the workman was not proper. There was complaint of indiscipline against him. Shri Madho Ram, Octroi Moharer had also made complaints against the workman, copies of which were Exhibit M-1 to M-11. On the complaints, the service of the workman was terminated. In cross examination, he replied that Exhibit M-1 to M-3 were complaints of Shri Madho Ram. No report was lodged in the police regarding complaint Exhibit M-3. He admitted as correct that the concerned workman had fined Rs. 10 form absence from duty. It was also admitted as correct that the workman was issued show cause notice for creating defect in the weigh scale. He did not know if the workman had gone with some one to take him to Administrators House. Complaints had started against the workman from 18th October, 1978. There were complaints from other Octroi Moharer also against the workman. He also admitted it as correct that the concerned workman had made a complaint to Deputy Commissioner, Karnal and S. P. Vigilance regarding some interpolation in form T. S. 11 but the enquiry was filed. The record of enquiry was with Vigilance Department. The letter received from the Department was in Municipal Office. He admitted that some peons were employed after the concerned workman and were still on the job. He further replied that no domestic enquiry was held against the concerned workman. He had also found the workman as absent. His services was terminated by the Administrator after receipt of explanations of Exhibit M-1 to M-11. No show cause notice or charge-sheet was issued to the workman. The concerned workman deposed that he was appointed helper on 19th June, 1978 at the rate of Rs. 6 per day. He worked upto 22nd September, 1979. He had made some complaints against municipal employee to the Deputy Commissioner, Karnal. The Administrator asked to withdraw the complaint against Shri Narsi Ram who was very close to the Administrator. He did not withdraw the complaint and his service was terminated on the next day. He had received notice Ex. W-1 which was replied,—vide Ex. W-2. No show cause notice was issued to him. In cross-examination, he replied that on 19th June, 1969, A. G. A. Karnal had come to check the scales of the Municipality, on that date his duty was on the scale near Railway crossing. He denied the suggestion that he had deliberately made the scale out of order. He admitted as correct that he was issued notice by the Administrator on the above allegation. He admitted as correct that on the night of 21st June, 1979, he was found absent by the Administrator when he checked octroi post. He also admitted that his explanation was called and he was also found absent on 27th June, 1979. He also admitted that he was found absent on the G. T. Road Barrier on 18th August, 1979 by the Administrator. He denied the suggestion that on 15th October, 1978, he was found drunk when his duty was on Karnally gate. He admitted it correct that Shri Madho Ram had made complaint against him about his drunkenness. It was also complained that some carts had passed the barrier without paying octroi duty. He also admitted that it is correct that Shri Madho Ram had made complaint against him for criminal intimidation and his explanation was also called on this complaint.

The learned representative for the management argued that the concerned workman was a daily wage employee. There were many complaints against him about indiscipline, drunkenness, absence and cause a loss of revenue to the Municipality. On the other hand, the learned representative for the workman argued that the workman had put in more than one year service. He was not issued charge-sheet nor domestic enquiry was held against him. Therefore, the workman was entitled to his reinstatement.

I have gone through the documents placed on file and find that Shri Madho Ram had made complaint against the concerned workman about his sleeping on duty being in intoxication and causing loss of revenue to the employer. Shri Krishan Gopal had made a complaint for damaging weigh scale. The Administrator found him absent from duty on 21st June, 1979, 27th June, 1979 and 28th June, 1979. In reply, the workman stated that he had gone to railway station for some work on one occasion and to the hospital on the other occasion and on third time, in explanation he stated that he had fallen from his cycle and went to his house for changing his soiled clothes. Shri Madan Mohan Octroi Superintendent also found him absent on 18th August, 1979.

The workman was a daily wages employee. As there were many complaints against him for dereliction of the duty, his explanation was called each time and he made reply but the charge of absence stood proved. He was also fined once by the Administrator. I do not find that further enquiry was to be made into allegations against the workman because he had submitted his explanation for each of the complaint. I am of the opinion that the management had proved allegation justifying termination of

service of this daily paid employee. He was not entitled to any relief. Therefore I give my award that the workman was not entitled to any relief.

M. C. BHARDWAI,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 29th June, 1982.

Endorsement No. 741, dated 6th July, 1982

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAI,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9 (1) 82-6Lab/7151.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Universal Steel and Alloys Ltd., Faridabad.

BEFORE SHRI M. C. BHARDWAI, PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA, FARIDABAD

Reference No. 142 of 1979

between

SHRI TEK CHAND BHATTI, WORKMAN AND THE MANAGEMENT OF
M/S. UNIVERSAL STEEL AND ALLOYS LTD., FARIDABAD

Present:—

Shri S. S. Gupta, for the workman.

Shri J. S. Saroha, for the management.

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Tek Chand Bhatti and the management of M/s Universal Steel and Alloys Ltd., Faridabad, by order No. ID/18216, dated 3rd May, 1979, to this Tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Tek Chand Bhatti was justified and in order ?
If not, to what relief is he entitled ?

Notices of the reference were sent to the parties who appeared and filed their pleadings. The following issues were framed by my learned predecessor,—*vide* his order dated 7th September, 1979 :—

- (1) Whether Shri Tek Chand Bhatti, is a workman under the I. D. Act ?
- (2) Whether the reference does not fall under section 2(a) of the Act.
- (3) Whether the workman has abandoned his job of his own ?
- (4) Whether the termination of services of the workman was justified and in order ?

The workman examined himself as WW-1, Shri Raziurrahman as WW-2 and Shri Sat Parkash, Shift Incharge as WW-3. The management examined Shri V. K. Bhaita, Works Manager, as MW-1, Shri Surender Kumar Malhotra as MW-2, Shri Chander Parkash Manager Personnel and Administration as MW-3, Shri S. P. Agrawal Head Timer Keeper as MW-4, Shri Parshottam Sharma as MW-5, Shri K. S. Chauhan, Controller of Stores as MW-6, Shri Sham Lal U.D.C. office of the Provident

Fund Commissioner as MW-7, Shri Sudershan Kumaria Manager as MW-8 and Shri Ashok Kashyap Head Writting Expert as MW-9. The workman also examined himself as WW-4. Arguments were heard. But later on the representative of the management made a statement that the workman had received a sum of Rs 12,000 in settlement of dispute and all other claims. He filed a copy of settlement Exhibit M-1.

In view of the above, I pass my award that the dispute has been settled by the parties and there nothing remains for adjudication.

Dated the 30th June, 1982

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

Endst. No. 744, dated the 30th July, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

The 23rd August, 1982

No. 9(1)82-6Lab./7223.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Oswal Steels, Plot No. 263, Sector 24, Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA, FARIDABAD.

Reference No. 74/1982

between

SHRI JAG RAM, WORKMAN AND THE MANAGEMENT OF M/S OSWAL STEELS,
PLOT NO. 263, SECTOR 24, FARIDABAD.

Present:—

Shri H. R. Dua, for the management.

Nemo, for the workman.

AWARD

The State Government of Haryana referred the following dispute between Shri Jag Ram workman and the management of M/s Oswal Steels, Plot No. 263, Sector 24, Faridabad, by order No. ID/FD/5/82/9904, dated 9th March, 1982, to this Tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of service of Shri Jag Ram, workman was justified and in order ?
If not, to what relief is he entitled ?

Notices of the reference were sent to the parties who appeared and the case was fixed for filling the written statement. On the date fixed, the management was Present but the workman did not appear. The representative of the management made a statement that the workman had settled his dispute with the management, copy of which was Exhibit M-1. He had received payment according to the settlement. Photo copies of payment vouchers were Exhibit M-2 to Exhibit M-5.

In view of the above, I pass my award that the dispute has been mutually settled by the parties and there remains nothing for adjudication.

Dated the 7th July, 1982.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No 766, dated the 10th July, 1982

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.